

M e m o r a n d u m

Date: May 17, 2006

To: The Commission
(Meeting of May 25, 2006)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2321 (Canciamilla) – Energy: Governor's Green Action Team.**
As Amended May 3, 2006

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support with Technical Amendments.

SUMMARY OF BILL: This bill would enact legislation to accomplish the mandates of Executive Order S-20-04 (the Governor's Green Building Order – Green Building Initiative) and to implement the California Green Building Action Plan. Specifically, AB 2321 will establish the Governor's Green Action Team consisting of at least 18 members, including two legislative members, to oversee and guide the State's progress toward achieving a 20% reduction in electricity purchases for state-owned buildings by 2015 and comparable reductions for other state government entities, local governments, schools and commercial buildings.

The Green Action Team will have two co-chairpersons, one being the President of the CPUC and the other, the Chair of the State Energy Resource Conservation and Development Commission or CEC.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION: The enactment of this legislation is consistent with the overall goals of the Energy Action Plan II, adopted by the CPUC and CEC, including the "loading order" for addressing the State's current and future electricity needs. To the extent that the bill calls for increased efforts to achieve a 20% reduction in electricity purchases by 2015, it also promotes the high priority given to energy conservation and efficiency in the loading order.

Implementation of the Green Building Initiative via AB 2321 would in principle, also help the State meet its goal of selecting the most cost-effective and most environmentally

protective means to meet growing electricity demand by reducing the State's greenhouse gas emissions. The legislation institutionalizes coordination among various entities in developing and implementing a 10-year action plan to meet the objectives of the Governor's Green Building Initiative, while making it clear that the CPUC and the CEC retains their respective administrative and oversight authority over energy efficiency, demand reduction, and conservation programs.

A recent international study of greener buildings, Green Value, reveals a clear link between the market value of real estate and its environmental friendliness. Buildings are responsible for 40 percent of greenhouse gases being pumped into the earth's atmosphere, which are considered a major contributor to climate change. This October 2005 study, led by the Royal Institution of Chartered Surveyors (RICS) in partnership with 10 government and private sector organizations, found that green buildings can earn higher rents and prices, attract tenants and buyers more quickly, reduce tenant turnover, are less costly to operate and maintain and benefit occupiers.

SUMMARY OF SUGGESTED AMENDMENTS: AB 2321 should be amended to include appropriation of funds to support the work that is to be carried out by the Green Action Team and the agency staffs that will be required to do this work in order to avoid some of the key (resource & time) barriers to implementing more energy efficiency projects (see estimated fiscal impacts below).

While the goals of the Green Action Team are clearly linked to on-going State programs (specifically CPUC energy efficiency and solar programs/initiatives, mandates or initiatives) and though there should be coordination to maximize the synergies of joint or simultaneous implementation of these programs and although there is a need to conserve the State's fiscal resources in achieving these admirable and essential goals, it will be important for the Green Action Team to be able to measure the independent achievements of the California Green Building Action Plan. Thus, the bill should be amended to call for clearer methods of tracking the Plan's implementation and progress, net of what is already being achieved or will be achieved by the Solar Initiative and/or State energy efficiency programs.

Since the CPUC's existing energy efficiency program is already required to provide progress reports on the basis of a triennial program cycle (e.g., 2006-2008 & 2009-2011, inclusive), it may be appropriate to mesh the reporting requirements and schedule for this bill with that cycle.

Lastly, the bill should be amended to include a sunset on the bill's provisions in a manner aligned with the 2015 goals in the Governor's Executive Order.

DIVISION ANALYSIS (Energy):

- The bill will likely impact local building codes affecting the construction of new facilities or the retrofit of existing structures.

- It may also impact any existing rules or policies governing commercial building transaction events such as sales, refinancing, leases, and appraisals that lend themselves to the assessment of energy efficiency in buildings.
- Building, appliance and equipment standards may also be affected as well as making green buildings a priority area for the public interest energy research sponsored by the CEC.
- The bill may also facilitate the further development of educational and technical training for technicians and building operators.
- Depending on the scope determined by the Green Action Team for implementing the Green Building Action Plan, the bill also may influence the development of market-based strategies and financing mechanisms to better enable energy efficiency investments in the State, toward the end of meeting the 20% by 2015 electricity purchases reduction goal.
- The bill also clearly states that:

“ This article does not supersede, nor shall its implementation impair, the administration and oversight of energy efficiency, demand reduction, and conservation programs of the Public Utilities Commission or the State Energy Resources Conservation and Development Commission.”

- PU Code Sections 381 and 399.8 require the CPUC to order electric utilities to collect and spend funds for cost-effective energy efficiency and other public purpose programs. Sections 890-899 require a gas surcharge to fund public purpose programs including cost-effective energy efficiency. Sections 399 and 399.4 reaffirm the mandate for continued investments in cost-effective energy efficiency and direct the CPUC to ensure participation of non-utility entities in program implementation where appropriate. CPUC D.05-01-055 adopted new administrative structure to implement energy efficiency programs for 2006 and beyond.
- Section 701.1 requires electrical and gas utilities to exploit all practicable and cost-effective energy efficiency and directs CPUC to include environmental costs and benefits in calculating cost effectiveness of energy resources.

PROGRAM BACKGROUND: As described in Section 1 of the bill, the CPUC has responded to the Governor’s Green Building Order in several ways. On September 23, 2004, the CPUC adopted energy savings goals –through Decision 04-09-060-- for the four largest IOUs: Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), Southern California Edison Company (SCE), and Southern California Gas Company (SCG). Electric and natural gas savings from energy efficiency programs funded by ratepayers through the public goods charge and procurement rates will contribute to these goals. The adopted goals will be updated every three years, in concert with the three year program planning and funding cycle for

energy efficiency programs. Furthermore, in any application or other filing in which PG&E, SDG&E, SCE or SCG present projections or supply-side resource needs, pipeline or transmission needs, propose new facilities or otherwise utilize projections of energy demand, they must demonstrate that such filings are fully consistent with the adopted energy saving goals or updates to these goals as adopted by the CPUC.

In D.05-09-043, the CPUC authorized funding for the utilities' energy efficiency programs over \$2 billion ratepayer funding for their 2006-2008 energy efficiency program portfolios and required the utilities to integrate in their portfolios programs designed to support the Green Building Initiative. The utilities have finalized their integrated portfolio plans for 2006-2008, which include statewide partnership programs with UC/CSU, Community Colleges, and Department of Corrections, local government partnership programs, as well as programs designed to improve energy efficiency of commercial buildings.

LEGISLATIVE HISTORY: None.

FISCAL IMPACT ON CPUC: The fiscal impact is estimated to be \$367,409 as this bill will require several new staffing positions and contract funds to implement. This includes three analyst positions, one supervisor at half-time, and technical assistance consultants for the 10-year duration of the bill's implementation, at minimum.

STATUS: The bill was dual referred to Assembly Natural Resources Committee and Assembly U & C Committee. The bill passed in both committees. The bill is now scheduled to be heard in Assembly Appropriations Committee on May 17th.

SUPPORT/OPPOSITION:

Support: None on file.

Opposition: None on file.

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BILL LANGUAGE:

BILL NUMBER: AB 2321 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 3, 2006
AMENDED IN ASSEMBLY APRIL 19, 2006

INTRODUCED BY Assembly Member Canciamilla
(Coauthors: Assembly Members ~~Koretz~~ Cohn,
Koretz, and Lieu)

FEBRUARY 22, 2006

An act to add Article 7.3 (commencing with Section 12078) to Chapter 2 of Part 2 of Division 3 of Title 2 of the Government Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2321, as amended, Canciamilla Energy: Governor's Green Action Team.

The California Energy Security and Reliability Act of 2000 established, until January 1, 2004, the Governor's Clean Energy GREEN TEAM.

Executive Order S-20-04 (Green Building Order) ordered certain state entities, and requested certain other state entities, to undertake measures to reduce state building electricity usage consistent with a Green Building Action Plan, and encouraged commercial building owners, cities, counties, and schools to undertake measures to reduce electricity usage. The Green Building Action Plan established an interagency team known as the "Green Action Team" to oversee and direct progress toward the goals of the Green Building Order.

This bill would establish the Governor's Green Action Team, consisting of at least ~~16~~ 18 members, as specified, with the primary mission of overseeing and directing progress toward reducing electricity purchases for state-owned buildings by 20% by 2015 and to achieve comparable reductions in electricity purchases for other entities of state government, for local government, for schools, and for commercial buildings. The Governor's Green Action Team would be required to develop and implement a 10-year action plan to accomplish certain actions and to coordinate programs in certain areas. The Governor's Green Action Team would be required to annually assess the progress being made each year toward the goals of reducing electricity purchases for state-owned buildings by 20% by 2015 and to achieve comparable reductions in electricity purchases for other entities of state government, for local government, for schools, and for commercial buildings and to make certain recommendations to the Governor and Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all the following:

(a) (1) The Energy Action Plan II, adopted by the Public Utilities Commission (PUC) and the State Energy Resources Conservation and Development Commission (Energy Commission), includes a "loading order" that describes the priority sequence for actions to address the state's increasing electricity needs.

(2) The loading order identifies energy efficiency and demand response measures as the state's preferred means of meeting growing electricity needs.

(3) After cost-effective energy efficiency and demand response measures, the state will rely on renewable resources for the generation of electricity and distributed electricity generation, including combined heat and power applications.

(4) To the extent efficiency measures, demand response measures, renewable resources generation, and distributed generation are unable to satisfy the state's increasing electricity and generational capacity needs, the state will support clean and efficient fossil fuel-fired generation.

(5) The loading order places conservation and energy efficiency measures first in the loading order, because these measures are the least expensive and most environmentally protective means to meet growing electricity demand.

(b) Commercial buildings use 36 percent of the state's electricity and account for a large portion of the state's emission of greenhouse gases.

(c) Investments in energy efficiency measures provide high returns on those investments, and boost the state's economy, creating jobs, local spending, and tax revenue. Investments in energy efficiency measures, by reducing energy and resource consumption, ultimately create a healthier and safer environment. Recent studies have concluded that the key barriers to doing more energy efficiency projects are the resources and time needed to implement often complex energy management systems and programs. Secondary barriers include lack of knowledge about energy issues and technologies, and a lack of understanding about the various programs. While resource and time constraints are obvious considerations in any discussion or effort pertaining to energy efficiency, the lack of knowledge and understanding of programs and technologies are often inadequately considered. Moreover, while time is an obvious barrier, it is often factored only for short-term projects, leaving gaps in plans aiming to achieve long-term goals. These drawbacks hinder the effectiveness of efficiency projects and can even prevent them from being undertaken.

(d) (1) In Executive Order S-20-04, the Governor established the Green Building Initiative.

(2) Executive Order S-20-04 included an order "(t)hat the state commit to aggressive action to reduce state building electricity usage by retrofitting, building and operating the most energy and resource efficient buildings by taking all cost-effective measures described in the Green Building Action Plan for facilities owned, funded or leased by the state and to encourage cities, counties and schools to do the same."

(3) Executive Order S-20-04 included the further order "(t)hat state agencies, departments, and other entities under the direct executive authority of the Governor cooperate in taking measures to reduce grid-based energy purchases for state-owned buildings by 20% by 2015, through cost-effective efficiency measures and distributed generation technologies ..."

(e) (1) The Governor's Executive Order S-20-04 urged the PUC to apply its energy efficiency authority to support a campaign to inform building owners and operators about the compelling economic benefits of energy efficiency measures and to improve commercial building efficiency programs to help achieve the 20 percent goal.

(2) In response to the Green Building Initiative, the PUC issued a decision setting annual and cumulative goals for energy savings through the year 2013 for the state's four largest investor owned electrical and gas corporations.

(3) This was followed by a subsequent decision in which the PUC approved over \$2 billion in ratepayer funding to support energy efficiency measures for the 2006 to 2008, inclusive, calendar years, an increase of over 60 percent on an annualized basis relative to the 2004-2005 program cycle.

(4) Rather than establishing a separate statewide program focused exclusively on commercial and state buildings, the four largest investor-owned utilities are to integrate the Green Building Initiative into their existing energy efficiency plans in a manner that attempts to be responsive to differing customer needs across the various market sectors.

(f) (1) The Governor's Executive Order S-20-04 ordered the Energy Commission to propose a benchmarking methodology and building commissioning guidelines to increase energy efficiency in government and private buildings and to undertake all actions within its authority to increase efficiency by 20 percent by 2015, to collaborate with the building construction industry state licensing boards to ensure building and contractor compliance.

(2) In response, the Energy Commission issued a report in September 2005 titled "Benchmarking System for California Commercial Buildings: Plan, Timetable, and Recommendations."

(3) Potentially facilitating this effort, the American Institute of Architects (AIA) Board of Directors recently approved energy efficiency goals calling for a 50 percent reduction in the fossil fuels needed to construct and operate buildings by 2010, and a 70 percent reduction by 2015. While it is debatable whether these dramatic AIA reduction goals are attainable, the innovative thinking behind them is critical to efficiency efforts, especially when coupled with the efforts of the Real Estate Industry Leadership Council and others, including universities and nonprofit groups.

(g) (1) The Governor's Executive Order S-20-04 requested the California Public Employees Retirement System and State Teachers Retirement System to target resource efficient buildings for real estate investments and commit clean technology funds to advance sustainable and efficiency technologies.

(2) The Governor's Executive Order S-20-04 requested other entities of state government not under the Governor's direct executive authority, including the University of California, California State University, California Community Colleges, constitutional officers, legislative and judicial branches, and the PUC to actively participate in efforts to increase efficiency by 20 percent.

(h) The Governor's Executive Order S-20-04 was accompanied by the State of California Green Building Action Plan, which contained specific action items to be undertaken to implement the goals of the executive order and appointed a Green Action Team, comprised of cabinet secretaries and chaired by the Secretary of the State and Consumer Services Agency that is responsible for implementation of the Green Building Initiative. The Green Action Team has established three committees, including the Energy Efficiency Committee, to focus on energy efficiency in nonstate commercial buildings.

(i) The Energy Efficiency Committee, which includes representatives of investor-owned utilities, publicly owned utilities, business, the real estate industry, and state government, has identified four priorities, including:

(1) An overall plan and set of strategies to accomplish goals of Executive Order S-20-04 among commercial buildings.

(2) Tools, mechanisms, and implementation plans to carry out widespread benchmarking of the energy use of commercial buildings.

(3) Increasing the use of building retro-commissioning that improves the operational efficiency of existing buildings systems separate from making hardware retrofit investments.

(4) Crafting an overall campaign to engage building owners in understanding the value of energy efficiency and committing their organizations to achieve these efficiencies.

(j) It is the intent of the Legislature to enact legislation to accomplish the goals of the Green Building Initiative and implement the California Green Building Action Plan.

SEC. 2. Article 7.3 (commencing with Section 12078) is added to Chapter 2 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 7.3. Governor's Green Action Team

12078. (a) There is hereby established the Governor's Green Action Team, which shall consist of two chairpersons and not more than ____ members as follows:

(1) The President of the Public Utilities Commission as one chairperson.

(2) The Chair of the State Energy Resources Conservation and Development Commission as one chairperson.

(3) The Director of Finance.

(4) The Secretary of Business, Transportation and Housing.

(5) The Secretary for Environmental Protection.

(6) The Secretary of the Resources Agency.

(7) The Secretary for Education.

(8) The Secretary of State and Consumer Services.

(9) Representatives of the commercial real estate industry.

(10) Representatives of the commercial building design and construction industry.

(11) Representatives of electrical corporations, as defined in Section 218 of the Public Utilities Code.

(12) Representatives of gas corporations, as defined in Section 222 of the Public Utilities Code.

(13) Representatives of local publicly owned electric utilities, as defined in Section 9604 of the Public Utilities Code.

(14) Representatives of professional building energy efficiency service providers.

(15) Representatives of environmental organizations.

(16) Representatives of local and regional government.

(17) *The Chair of the Assembly Committee on Utilities and Commerce, or its successor committee, and the Chair of the Senate Committee on Energy, Utilities and Communications, or its successor committee.*

(b) The primary mission of the Governor's Green Action Team shall be to oversee and guide progress toward reducing electricity purchases for state-owned buildings by 20 percent by 2015 and to achieve comparable reductions in electricity purchases for other entities of state government, for local government, for schools, and for commercial buildings, by doing all of the following:

(1) Develop and implement a 10 year action plan, with a sustained and strategic commitment to accomplish both of the following:

(A) Identify and outline strategies to overcome key barriers to attainment of long-term energy efficiencies, including lack of knowledge, lack of motivation, and access to capital.

(B) Identify and take advantage of appropriate commercial building transaction events, including sale, refinancing, employment of new management, renovations, leases, and appraisals of commercial buildings, that lend themselves to assessments of the energy efficiency of existing buildings.

(2) Coordinate programs in all of the following areas:

(A) Energy efficiency and renewable energy resources programs of electrical corporations, gas corporations, and local publicly owned electric utilities.

(B) Building, appliance, and equipment standards and public interest research activities of the State Energy Resources Conservation and Development Commission.

(C) Market-based strategies involving commercial real estate, building system suppliers, and other professional stakeholders.

(D) Educational and technical training directed at increasing building operator and technician knowledge.

(E) Financing mechanisms that better enable investments in energy efficiency.

(3) This article does not supersede, nor shall its implementation impair, the administration and oversight of energy efficiency, demand reduction, and conservation programs of the Public Utilities Commission or the State Energy Resources Conservation and Development Commission.

(c) The Governor's Green Action Team shall annually assess the progress being made each year toward the goals of reducing electricity purchases for state-owned buildings by 20 percent by 2015 and to achieve comparable reductions in electricity purchases for other entities of state government, for local government, for schools, and for commercial buildings.

(d) The Governor's Green Action Team shall annually recommend to the Governor and to the Legislature any additional legislation, policies, new programs, modifications to existing programs, or other action necessary to reach the goals of reducing electricity purchases for state-owned buildings by 20 percent by 2015 and to achieve comparable reductions in electricity purchases for other entities of state government, for local government, for schools, and for commercial buildings.